

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 49430

Robert Leon Temple
Linda P. Temple

1307 Goodwood Avenue

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on June 10, 2009, for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102, ZCPM failure to cease service garage activity; (BCZR) section 101,1 102.1, 1B01.1D, failure to remove and cease open dump condition on residential property zoned DR 10.5 known as 1307 Goodwood Avenue, 21221.

On May 30, 2009, pursuant to §3-6-205, Baltimore County Code, Inspector M. Stuart Kelly issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$12,000.00 (twelve thousand dollars).

The following persons appeared for the Hearing and testified: Respondents, Robert Leon Temple, Linda P. Temple; Complainant, Willy Russell; and M. Stuart Kelly, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on August 18, 2008 for removal of untagged/inoperative motor vehicles, to cease service garage activities, and for removal of open dump/junk yard. Citations were issued on March 30, 2009 and April 27, 2009 but not enforced. This Citation was issued on May 30, 2009.

B. In June 2007, the Hearing Officer enforced a Citation for the same violations, and imposed a \$1,000.00 civil penalty that was suspended provided the violations did not recur. The Hearing Officer's Final Order stated in part, "Mr. Creed reported that all items constituting junkyard conditions have been removed; all untagged vehicles have been licensed or removed. ... Mr. Temple was advised that no exterior evidence of a business from a residence shall exist on subject property, namely storage of vehicles for repair, storage of unlicensed, inoperable vehicles, storage of auto parts, tires, batteries, etc."

C. Photographs in the file show open dump and junkyard conditions in the yard of this residential property, with automobile parts and old tires visible. Inspector Kelly testified that the vehicles in the rear yard have been removed and open dump conditions have been addressed, but the service garage violation remains.

D. Respondent Robert Temple testified that he lost his lease on a ten bay automotive shop and had to move his tools and equipment. He testified that he has been bringing vehicles to the property for repair. He testified that he has recently rented a storage lot for the vehicles.

E. Mr. Russell, who is a neighbor, testified that the service garage activities are improper in this residential area and requested that Baltimore County enforce the rules.

F. As noted above, Respondents have received multiple notices and citations for open dump/junk yard and commercial service garage violations during the past two years. Despite actual notice of the restrictions, including a code enforcement Citation that was enforced in 2007, Respondents have continued to operate a service garage business from this residential property, and have improperly stored multiple vehicles, equipment, and used auto parts outside on the property. This violates zoning regulations and harms other residents of the community, who are entitled to enjoy their residential properties without the intrusion of commercial activities. Because compliance is the goal of code enforcement, and Respondents stated at this Hearing that they will comply with zoning restrictions and move the equipment and service garage activities to another location, the civil penalty will be substantially reduced if Respondents bring the property into compliance in the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$6,000.00 (six thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$500.00 (five hundred dollars) if the violations are corrected by July 20, 2009.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty as authorized above shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 22nd day of June 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf